

RULE 5
[LR10-AR00-5]
ALLOCATION OF CASES

A. Applicability. This rule shall apply to all felony and misdemeanor cases filed in the Circuit Courts in Clark County, Indiana and in the Clarksville Town Court.

B. Major Felony Cases. Except as otherwise specifically provided for, all cases which include Murder, Class A, Class B, Class C, Level 1, Level 2, Level 3, Level 4, or Level 5 Felony offenses as the most serious charged offense, shall be assigned as follows:

1. Cases alleging the most serious offense was committed during the months of February, April, June, August, October or December shall be assigned to the Judge of ~~Clark~~ Circuit Court No. 1.

2. Cases alleging the most serious offense was committed during the months of January, March, May, July, September, or November shall be assigned to the Judge of ~~Clark~~ Circuit Court No. 4.

Cases with co-defendants shall be filed in the same court.

C. Misdemeanor, ~~and Class D Felony Cases~~ and Level 6 Felony Cases. Except as otherwise specifically provided, all cases having a Class D Felony or Level 6 as the most serious charge shall be assigned to the Judge of Circuit Court No. 3. Misdemeanor offenses occurring in Clarksville shall be assigned to the Judge of Clarksville Town Court; all other misdemeanor offenses shall be assigned to the Judge of Circuit Court No. 3.

D. Traffic-Related Cases. All cases which include a felony charge relating to traffic or motor vehicles, under Title 9 of the Indiana Code or Indiana Code 35-42-1 (Homicide) shall be assigned to the Judge of Circuit Court No. 3.

E. Controlled Substances Cases. All Class A, Class B, Class C, Class D, Level 1, Level 2, Level 3, Level 4, Level 5 and Level 6 felony cases which include a charge related to Controlled Substances under Indiana Code 35-48 or Legend Drugs under Indiana Code 16-42 shall be assigned to the Judge of Circuit Court No. 2. Class D or multiple Class D Felony cases which include driving offenses shall be assigned to the Judge of Circuit Court No. 3.

F. Juvenile Criminal Cases. All cases which include a misdemeanor or felony charge against a defendant alleged to be under the age of eighteen (18) at the time of the commission of the offense, shall be assigned to the Judge of Circuit Court No. 4.

All cases which include a charge of Neglect of a Dependent or Contributing to the Delinquency under Indiana Code 35-46-1-8 or Violation of Compulsory School Attendance under Indiana Code 20-8.1-3 shall be assigned to the Judge of Circuit Court No. 4.

G. Attempt, Conspiracy, and Aiding Cases. For purposes of this Rule, when a case includes a charge of Attempt under Indiana Code 35-41-5-1, Conspiracy under Indiana Code 35-41-5-1, or Aiding under Indiana Code 35-41-2-4, proper assignment of the case shall be determined by reference to the substantive offense underlying each charge.

H. Re-filing of Dismissed Cases. In the event a criminal case is dismissed, and thereafter, the same or similar case is filed against the same defendant(s) based upon the same transaction, the case shall be assigned to the judge who entered the Order of Dismissal on the earlier case.

I. Juvenile Paternity Cases. One-half of the Juvenile Paternity cases shall be assigned to the Judge of Circuit Court No. 1. One-half of the Juvenile Paternity cases shall be assigned to the Judge of Circuit Court No. 4.

J. Other Juvenile Cases. All Juvenile CHINS cases, Juvenile Status cases, Juvenile Termination of Parental Rights cases, and Juvenile Miscellaneous cases shall be assigned to the Judge of Circuit Court No. 4.

K. Mortgage Foreclosure and Civil Collection Cases. Mortgage Foreclosure cases shall be assigned ~~on an equal basis~~ to the Judges of Circuit Court No. 1 ~~and Circuit Court No. 2.~~

L. Civil Tort and Civil Plenary Cases. Civil Tort ~~and Civil Plenary~~ cases shall be assigned ~~on an equal basis~~ to the Judges of Circuit Court No. 1, ~~No. 2 and No. 4.~~ Civil Plenary cases shall be assigned to the Judge of Circuit Court No. 2. Any case involving a Clark County tax sale or conservancy district issue shall be assigned to the Judge of Circuit Court No. 1.

M. Small Claims Cases. All Small Claims cases shall be assigned to the Judge of Circuit Court No. ~~3~~ 1.

N. Mental Health Cases. All Mental Health cases shall be assigned to the Judge of Circuit Court No. 1.

O. Domestic Relations Cases. One-half of the Domestic Relations cases shall be assigned ~~on an equal basis~~ to the Judges of Circuit Court No. 1, ~~No. 2 and~~ one-half of the Domestic Relations cases shall be assigned to the Judge of Circuit Court No. 4.

P. Reciprocal Support Cases. All Reciprocal Support cases shall be assigned to the Judge of Circuit Court No. ~~4~~ 2.

Q. Protective Order Cases. All Protective Order cases shall be assigned to the Judge of Circuit Court No. 2 unless the Protective Order request is associated with a Dissolution of Marriage case filed in another court. In such instance, the Protective Order request shall be assigned to that court.

R. Guardianship and Estate Cases. One-half of the Guardianship cases shall be assigned to the Judge of Circuit Court No. 1 and one-half of the Guardianship cases shall be assigned to the

Judge of ~~Clark~~ Circuit Court No. 4. Estate cases (supervised and unsupervised) shall be assigned to the Judge of Circuit Court No. 1.

S. Trust Cases. All Trust cases shall be assigned to the Judge of Circuit Court No. 1.

T. Adoption Cases. All Adoption Cases shall be assigned on an equal basis to the Judges of the Circuit Courts.

U. Family Court Exceptions. This subsection applies to situations of pending CHINS or juvenile delinquency matters in Circuit Court No. 4. Notwithstanding any other provision of this Rule, when a family law case (e.g., dissolution, paternity, guardianship, adoption, reciprocal support) or a modification of an existing family law case involving the same family in the pending CHINS or juvenile delinquency matter is presented to the Clerk for filing, that matter shall be filed in or transferred to Circuit Court No. 4. When a CHINS or juvenile delinquency case is filed in Circuit Court No. 4 after a family law case has been filed in any other court, the judge with jurisdiction over the family law case shall transfer that case to Circuit Court No. 4. The Judge of Circuit Court No. 4 may request a transfer of certain criminal cases where those cases have a direct impact on allocation of parenting time or placement of the child in a pending CHINS or delinquency matter.

V. Exceptions for Defendant with Pending Cases. When a new criminal case filing involves a defendant who has a pending criminal case, other than a Petition to Revoke Probation, the provisions of this subsection shall apply. If a defendant has a pending case in Circuit Court No. 1 or Circuit Court No. 4 and is charged with a new offense that is not (1) a traffic or driving related offense or (2) a felony drug or controlled substance offense, the new case shall be filed where the current case is pending. If a defendant has a pending case in Circuit Court No. 2 or Circuit Court No. 3 that is not (1) a traffic or driving related offense or (2) a felony drug or controlled substance offense, and a new case is filed against that defendant in Circuit Court No. 1 or Circuit Court No. 4, the pending case in the other court shall be transferred to Circuit Court No. 1 or Circuit Court No. 4 upon the filing of the new charge.

W. Transfer of Cases. When a Judge of the Circuit Court deems it appropriate, and consistent with the authority granted to these Courts by statute, any Judge of such Courts may enter an Order, after initial filing, transferring any civil, family or criminal case to the docket of any such other Court in Clark County.

X. Error in Case Assignments. Any error in the assignment of a criminal case shall not constitute grounds for an appeal or post-conviction relief unless actual bias or prejudice of the judge hearing the case is demonstrated

Y. Clerk Management of Case Assignment Process. The Clerk of the Circuit Courts shall, upon the approval of the Judges of each such Court, implement and manage an appropriate, efficient system for distribution of cases described in the foregoing subsections as being the object of assignment "on an equal basis."

(Amended effective _____)